

SENATE BILL 1722

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 12,  
Chapter 3, Part 10, relative to purchasing through  
requests for proposals.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 3, Part 10, is amended by  
adding the following as a new section thereto:

(a) Any municipality may use competitive sealed proposals to purchase goods  
and services rather than competitive sealed bids when the purchasing agent, acting  
under the restrictions and requirements of this section and a procurement code adopted  
by the municipality's governing body, determines that the use of competitive sealed  
bidding is either not practicable or not advantageous to the municipality.

(b) In the decision to use competitive sealed proposals, the purchasing agent  
shall follow a procurement code, which must be adopted by the municipality by  
ordinance before purchases may be made under this section. The code shall contain  
criteria for purchasing through competitive sealed proposals and procedures consistent  
with this section for doing so.

(c) The procurement code shall provide that competitive sealed proposals may  
be used only when qualifications, experience, or competence are more important  
than price in making the purchase and:

(1) When there is more than one (1) solution to a purchasing issue  
and the proposals will assist in choosing the best solution; or

(2) When there is no readily identifiable solution to a purchasing  
issue and the proposals will assist in identifying one (1) or more solutions.

(d) The Municipal Technical Advisory Service of the University of Tennessee's Institute for Public Service shall develop a model procurement code that may be adopted by any municipality to guide the purchasing agent in making purchases through requests for proposals.

(e) Adequate public notice of the request for proposals shall be given in the same manner provided for competitive sealed bids.

(f) Proposals shall be opened in a manner that avoids disclosure of contents to competing proposers during the negotiation. The proposals shall be open for public inspection after the contract award.

(g) The request for proposals shall state the relative importance of price and other evaluation factors.

(h) As provided in the request for proposals and in the procurement code, discussions may be conducted for clarification to assure full understanding of, and responsiveness to, the solicitation requirements with responsible proposers who submit proposals determined by the purchasing agent to be reasonably susceptible of being selected. These proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award to obtain the best and final offers. In conducting discussions, the purchasing agent and other municipal personnel may make no disclosure to any proposer of any information derived from proposals submitted by competing proposers.

(i) The award shall be made to the responsible proposer whose proposal the governing body determines is the most advantageous to the municipality, taking into consideration price and the evaluation factors set out in the request for proposals.

No other factor may be used in the evaluation. The purchasing agent shall place in the contract file a statement containing the basis on which the award was made.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.